State of Alaska
Department of Natural Resources
Division of Forestry
Coastal Region
Mat-Su Area

Forest Land Use Plan/Preliminary Decision For the

Seventeen Mile Moose Timber Sale

SC-2902M

Winter 2009

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I. INTRODUCTION

A: Purpose

The purpose of this Forest Land Use Plan (FLUP) is to provide sufficient information for reviewers to ensure that the best interest of the state will be served by the Department of Natural Resources (DNR) Division of Forestry (DOF), Coastal Region, Mat-Su Area offering an estimated total gross volume of approximately **500 cords** (450 cunits) of commercial birch firewood and approximately **45 thousand board feet (MBF)** of commercial spruce saw logs for sale. (A cunit equals 100 cubic feet of solid wood and 1.1 cords). In addition to the harvest of fuel wood and saw timber this timber sale is designed to be scarified to expose mineral soil for natural regeneration of the forest and in so doing to provide moose browse and early serial stages of forest wildlife habitat.

This timber sale is a single harvest unit composing approximately **83 acres** and will be sold under the provisions of AS 38.05.120 [Disposal Procedure]. If no qualified bid is received within the time specified for a sale, the DOF may offer the unit for purchase over-the-counter for not less than the advertised minimum bid without further notice. No new roads to the timber sale will be required for construction. Main haul and logging roads within this previously harvested timber sale will be reopened. Contract period for this proposed timber sale will last two years. The area was logged approximately 15 years ago selectively harvesting spruce.

The public is invited to comment on this timber sale with regards to the best interest finding (AS 38.05.035, Powers and Duties of the Director). Comments should be mailed to the Area Forester, Alaska Division of Forestry, 101 Airport Road, Palmer, Alaska, 99645. Comments must be received at the Division of Forestry office no later than **April 21, 2009** in order to be considered in the final decision of whether the sale will be held in whole or in part. To be eligible to appeal the final decision a person must have provided written comment by **April 21, 2009.**

B. Five-Year Sale Schedule

The footprint that this proposed sale occupies has been shown as a potential sale area in the current Five-Year Schedule of Timber Sales (FYSTS) for Calendar Years 2007-2011.

C. Location

The legal description of this proposed action is as follows: the North ½ of Section 25, T19N, R2E, in the Seward Meridian (SM), located on the United States Geological Survey (USGS) 1:63,360 map, Anchorage C-6.

Sutton is the nearest community, and is located approximately 4 miles east of the timber sale area. The timber sale unit is accessed by driving west from the Glenn Highway at Mile Post 58 on to 58 Mile Road proceeding west approximately 1 mile, then north on the road just prior to the Palmer Correctional Center for approximately ½ mile to All Elks Road, proceeding west approximately 1 mile to the Chickaloon Native housing project, then turn north and proceed approximately 2/3 mile on the main logging access road that runs between sections 25 & 26 to where it T's and turn back to the east. The timber sale is south of this access road by approximately 600 to 800 feet and runs in an east – west direction south of this road which runs northeast and southwest diagonally through the north ½ of section 25. The Chickaloon Native Association is the nearest Native Organization.

D. Title, Classification and Other Active or Pending Interests

The proposed timber sale units are in Management Unit 6a of the *Susitna Area Plan (SAP 1985) (Glenn Highway Area)* and the listed primary land use designations are *Coal, Forestry, Public Recreation and Wildlife Habitat*. The proposed sale unit is not subject to the Susitna Forestry Guidelines (*SFG*). This timber sale area also falls under the *Matanuska Valley Moose Range Plan* and was designated by the Legislature for moose habitat and subsistence hunting resources.

The land use designations and management intent specifically allow timber harvest and multiple-use forest management. These lands are planned for retention by the state with continued state ownership specifically allowing development for coal resources, forest management, public recreation, and wildlife habitat. The classified State lands specifically described with in this FLUP are not designated for any kind of public land sale in the foreseeable future.

The SAP listed above was adopted based on extensive input from agencies, organizations, local communities, and included public meetings and a public comment period. By law, State forest land must provide for multiple uses (AS 41.17.060 and 38.04.065).

E. Planning Framework

The decision to offer the *Seventeen Mile Moose Timber Sale* was based on a long series of planning decisions, made with public input every step of the way. This document, the Forest Land Use Plan for this timber sale, is one of the final steps in this long planning process. The planning for where timber harvest is appropriate, and where it is not appropriate, is done at a much broader scale than the FLUP. The framework for how management decisions are made for timber sales in the Susitna and Matanuska Valley is as follows:

1. Area plans and land use plans (in this case, the *Susitna Area Plan*) determine where timber harvesting is allowed.
2. The Alaska Forest Resources and Practices Act and Regulations determine how timber will be managed within areas where harvesting is allowed by the Area Plan.
3. The Five-Year Schedule of Timber Sales (FYSTS) proposes when timber sales will be offered, and approximately where and how big each sale will be.
4. A Forest Land Use Plan (FLUP) is required and written for each sale or group of sales

in a specific sale area, and contains more detailed decisions.

1. The *Susitna Area Plan* (*SAP* June 1985), is the broad-scale analysis of land uses appropriate on different areas of state land in the Susitna Valley and specifically within the *Glenn Highway sub region* of the *SAP* where the proposed harvest units are described herein. The *Susitna Area Plan* covers approximately 15.8 million acres in South-central Alaska, and was finished in 1985. The specific area of this proposed timber sale will allow timber harvest that where feasible and prudent, will be done in a manner that enhances wildlife habitat. These individual planning processes were the means to openly review resource information and public concerns prior to making long-range decisions about public land management. The planning processes determined how the complete range of uses would be accommodated in the Susitna Area, and specifically in the *Glenn Highway sub region*, and include opportunities for forestry as well as protecting and enhancing other valuable assets, and the whole range of other uses.

2. Forestry activities in this proposed timber sale area are also governed by the *Matanuska Valley Moose Range* Plan *(MVMR October 1986)*, a document developed through an additional broad-scale public planning process. The *MVMR* was established to maintain, improve and enhance moose populations and habitat and other wildlife resources of the area, and to perpetuate public multiple use of the area, including fishing, grazing, forest management, hunting, trapping, mineral and coal entry and development, and other forms of public use of public land not incompatible with the purposes stated.

3. Next, the Division of Forestry prepares a Five-Year Schedule of Timber Sales (FYSTS) every other year. The FYSTS give the public, timber industry, and other agencies an overview of the Division's plans for timber sales. They summarize information on proposed timber harvest areas, timber sale access, and reforestation plans. FYSTS are subject to public and agency review. The review helps identify issues that must be addressed in detailed timber sale planning. After review and revision, the DNR uses the schedules to decide how and where to proceed with timber sale planning.

The sale area was included in the DOF's Mat-Su Area and Kenai-Kodiak Area Five Year Schedule of Timber Sales, 2007-2011. The Schedule was published in July 2007 and noticed for public comment in the *Frontiersman* and the *Anchorage Daily News* on July 17, 2007. The notice was posted in all Mat-Su post offices and on the State of Alaska Public Notice and the DOF web sites. The notice was also sent to agencies, Mat-Su community councils, tribal councils, Native corporations, planning commissions, Legislative offices, conservation groups, small mill operators, timber industry representatives, and private citizens. The schedule and maps are available for download from the DOF's web site. Public comments were accepted until August 16, 2007, but comments received after August 16, were also kept in the file. Thirty-three comments concerning the current FYSTS were received. These public comments were used to identify issues that would be addressed in the Forest Land Use Plans.

4. Finally, this document, the Forest Land Use Plan (*FLUP*) is prepared. The *FLUP* contains detailed information on the location, access, harvest methods, duration, and proposed reforestation for specific harvest areas. The public is asked to comment at this stage, as well. By getting the best available data, combined with a series of public processes that helps us gather information from the public and other agencies, we make well-informed decisions about uses of resources on state land.

F. Objectives

1. **Meet mandate.** To make available a commercial supply of wood and timber products available to the people of Alaska and especially in the immediate area unable to harvest personal use fire wood for home heating, saw logs for lumber products, chips, pellets, or house logs. In so doing to follow one of DNR's constitutional mandates to encourage the development of the state's renewable resources, making them available for maximum use consistent with the public interest. Sustain and promote a healthy**,** long-term timber industry in the State, through providing a secure source of timber for harvest that produces raw materials for local manufacturing (fire wood, saw logs, and house logs) while protecting and enhancing other resources such as fish and wildlife habitat.

2. **Habitat objectives.** To improve wildlife habitat for species dependant on the early successional stages of forest growth by creating a more diverse mosaic of forest stand ages. This harvest is designed to meet the objectives of the Matanuska Valley Moose Range Plan by regenerating, and improving moose habitat and browse by site preparation methods including scarification exposing mineral soil to hardwood (birch, willow, aspen, etc.) seed germination and successful growth for browse and forest stand re-establishment.

3. **Economic benefits.** To help the economy of the State and Borough by providing royalties to the state from stumpage receipts, and adding to the State and local Borough economy through earned wages, purchases, employment and business.

4. **Proactive forest management.** To improve forest growth, regeneration, forest age-class diversity and forest health & vigor by harvesting and replacing some mature birch stands with new healthy stands of forest re-growth, while protecting and maintaining other resource values. The actions authorized under this decision will adhere to multiple-use management.

5. **Public safety objectives.** Adhere to the goals of the Moose Collision Mitigation Committee proposal that all timber sales where and when possible be situated to help divert moose off of highways and transportation corridors by emphasizing forest regeneration to provide short-term moose browse.

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II. LEGAL AUTHORITY

The Division is taking this action under the authority of AS 38.05.035(e) (Best Interest Finding); AS 38.05.110-120; 11 AAC 71 (Timber Sale Statutes and Regulations); AS 41.17.010-.950 and 11 AAC 95 (Forest Resources and Practices Statutes and Regulations).

III. ADMINISTRATIVE RECORD

The DOF will maintain an administrative record regarding the decision of whether or not to offer timber within the **Seventeen Mile Moose Timber Sale**. This record will be maintained at the Mat-Su Area Office by project, unit, legal description, and the year in which management was instituted and for purposes of tracking will be known as **SC-2908M**.

IV. DISCUSSION OF ISSUES

A. Physical characteristics of the sale area

1. Topography

The proposed timber sale unit is situated on uplands approximately 700 to 1,000 feet above sea level. Terrain is undulating steep and sloping with hills and ridges. There are short pitches (less than 100 feet in length) of 20-60 percent slopes.

2. Soils.

Soils in the Seventeen Mile Moose Timber Sale Area are described in the Soil Survey of Matanuska-Susitna Valley Area, Alaska, 1998. The harvest unit is composed of the *Kitchatna silt loam, steep and sloping soils (153)* and the *Kashwitna silt loam, undulating soils (149).*

The predominant soil in Unit 1 is composed of the *Kitchatna series (153),* a well drained steep sloping soil complex moderately suited to forestry located on hills and ridges composed of a brown silt loam approximately 4 to 19 inches deep over very coarse silty sand and gravel substrate. Logging with erosion potential is slight if the vegetative mat is left undisturbed. Scarification after logging must be done across slopes and hillsides to prevent erosion and yet promote reforestation. Scarification in this instance will best be accomplished in small patches or contoured strips using a medium or large sized excavator with a bucket. Long runs of scarification down slope could promote severe erosion and runoff detrimental to reforestation.

The *Kashwitna silt loam (149),* makes up approximately 30% or less of the soil types identified in unit 1 from the Soil Survey maps. The undulating topography where this

soil is found is well drained but less permeable and lies deeper over the top of the gravelly material substrate beneath.

Both soils are well suited to forestry. Wind throw hazard on these soils is moderate due to the shallow rooted nature of native trees in the area.

3. Water bodies, Fisheries, and Water Quality.

The *Atlas to the Catalog of Waters Important for Spawning, Rearing, and Migration of Anadromous Fishes* was used as a reference guide to indicate the potential for fish habitat issues in the timber sale area. No water bodies with fish resources of any kind are identified in the Atlas and no water bodies with fish of any kind or the potential to have fish in them were encountered during field layout of the timber sale. The closest water body known to have fish resources is Seventeen Mile Lake, approximately ¾ mile east of the timber sale unit.

Harvest operations are anticipated to have minimal impact on water quality because the harvest unit is not in or adjacent to a water body.

Harvesting operations will not cross any streams, wetlands, lakes, or ponds. The re-opened roads will be maintained using the BMP's required by the AFRPA and the timber sale contract. Timely and periodic inspections by the DOF and the Division of Habitat will monitor the progress and condition of the road system. Under no circumstances will the purchaser yard timber in a manner that will impact water quality. The sale area has been designed and operations will be conducted in compliance with the Alaska Forest Resources and Practices Act (AFRPA) and its regulations, which protect water quality and fish habitat from degradation.

Information from field inspections, compliance monitoring, and the State ACWA (Alaska Clean Water Act) database indicate that the FRPA is effective in protecting water quality. The annual report from the Department of Environmental Conservation (DEC) on the effectiveness of FRPA concluded that, "when properly implemented, the BMPs are effective at protecting water quality." No streams have been identified or listed for violation of water quality standards as a result of forest operations subject to the FRPA best management practices.

4. Stand Conditions.

The harvest unit within Section 25 consists of paper birch 100 + years of age, with scattered uneven-aged white spruce varying in age from seedlings to mature trees more than 100 years of age. The area including this unit was previously selectively cut in more than 15 years ago. Old growth birch (more than 100 years of age) in this area is in early stages of decline exhibiting conk, fungus, frost cracks, and broken tops. The estimated average DBH (diameter-breast-height) of the older birch trees is 12 inches or larger and the estimated average tree height is 55 feet. The average **birch volume** per acre in this proposed timber harvest is approximately **7 cords per acre** of firewood with a few saw logs included.

White spruce timber is scattered throughout the unit. The **spruce volume** is estimated at approximately **45 thousand board feet (45 mbf)**. Approximately 15% of the spruce, mostly in pockets, have killed by the bark beetle. Volumes, stocking, and habitat could be improved by managing the stand to increase the number of white spruce trees/acre for the future. The unit generally has a partially closed over-story canopy with openings created by birch mortality and the previous harvest. New growth appears to be offset by continued decline and mortality.

Four decay causing pathogens have been identified in the older growth paper birch: *Phellimus ignirius, Poria obliqua, Armillaria* spp., *and Pholiota* spp. Surveys of these pathogens were conducted in South-central Alaska in 1996. In general, the amount of stem, butt, and root decay was low in stands less than 50 years of age. Moderate decay was apparent in approximately half the trees in stands over 70 years of age, while nearly every tree contained extensive decay in stands over 100 years of age.

The under-story vegetation is dominated by grass and brush growth and is also composed of dwarf dogwood (bunch berry), club moss, high bush and low bush cranberry, horse tail (equisetum), menzesia, alder, willow, rose, blue berry, elder berry, and devils club.

5. Silvics of birch trees.

White or Paper Birch (*Betula papyrifera*) is a medium-sized, fast-growing tree that grows best on well-drained, cool, moist soils (Safford, 1990). Birch can grow on drier or wetter sites but will not achieve the growth rates found on more optimal sites. Birch is considered a short-lived tree, and matures at 60 to 70 years old. It rarely lives longer than 140 to 200 years. Birch commonly colonizes disturbed sites found after logging, fires, and windstorms. Scarification techniques are used to mimic or augment these disturbances and ensure adequate stocking levels to meet management and regulatory goals.

White birch normally produces seed at about age 15, with the optimum seed producing age between 40 to 70 years old (Safford, 1990). Birches produce seed every year and produce abundant seed crops every two to three years. Seeds are light, small and winged and average 1.4 million seeds per pound (Safford, 1990). Because of their size, seeds are easily dispersed by the wind and across the snow. Seeds are dispersed throughout the fall and winter with the majority of seed falling during the fall months.

Mineral soil provides the best moisture and temperature medium for the establishment and early growth of seedlings (Safford, 1983). Provided that the organic material is preserved, treatments such as scarification, disking, and light burning help provide the best seedbeds for establishing white birch (Safford, 1983).

In Zasada's (1978) study of Alaskan birch regeneration three years after clear cutting, 100% of the scarified plots measured had seedlings while only 30% of the unscarified sites had seedlings. The seedlings in the scarified sites averaged 11 inches in height while the untreated sites averaged 2 inches (Zasada, 1977). The data is not consistent with other findings in the northeast, which showed birch germinated better on scarified sites but grew better on the untreated sites. The difference may be due to competition of herbaceous and other vegetation on the untreated sites in Alaska (Safford, 1990).

Blue joint reed grass (*Calamagrostis canadensis*) in South-central Alaska is a serious competitor of both spruce and birch regeneration. Grass rhizomes and seeds quickly colonize sites. Grass robs seedlings of needed nutrients and light. Winter snows will often flatten heavy growths of grass, and in so doing, break, bend, and smother seedlings in direct competition with the grass. Scarification retards grass colonization and allows the seedlings to become established and compete with the grass.

Collins, in his 1996 study of 96 selectively cut and clear-cut sites, found that clear cuts were much more successful than selectively harvested timber in limiting the growth of blue joint reed grass. Grass cover was greatly increased in selectively cut sites, which limited hardwood growth to areas where the overstory was relatively open and mineral soil was present, for example, upturned root wads or haul roads. Collins' survey found that complete or nearly complete overstory removal, followed by scarification, were most favorable to the establishment of an early successional hardwood forest with tree species that include birch, aspen, balsam poplar, and black cottonwood.

6. **Silvics of White Spruce Trees.**

White spruce *(Picea glauca)* in the middle and lower portions of the Matanuska and Susitna river valleys grow on a variety of sites but most productively on moderately drained uplands and well-drained river bottoms. Productive soils tend to be cool, and moist, with little or no permafrost. White spruce in the Mat-Su area of South-central Alaska grow in mixed stand associations of spruce and hardwoods including birch, aspen, balsam poplar, and black cottonwood.

Since the turn of the 20th century, human activity has become increasingly prevalent. The wildfire cycle as a result, is shorter than the natural fire regime of 200 to 300 year intervals. Fires caused by homesteading, mining, road, and rail-road development have created a forest mix of conifer/spruce in association with hardwood/birch. Mature stands of mixed birch /spruce, range 100 to 150 years of age. In locations relatively free of fire, white spruce has been occasionally encountered exceeding 200 years of age in the Mat-Su.

Typically, spruce regenerates after natural disturbance including fire, and flooding. These large-scale disturbances expose mineral soil that allows seed germination, and suppresses competing vegetation allowing seedlings freedom to grow. White spruce is moderately shade tolerant, and will grow, if not prosper, beneath an overstory of faster

growing birch. When the relatively short-lived birch stand begins to decline, past the age of 80 years, spruce will grow up beyond the birch, and dominate the timber stand.

Spruce initially suppressed by an over story of hardwoods, are generally also damaged or killed by frost cracking, wind throw, snow damage, root rots, and spruce beetle. Birch/spruce forests in the Mat-Su older than 125 years of age typically evidence spruce beetle mortality of 30% or more. Increased mortality accompanying older age forests only partially open them up to additional sunlight, and the forest floor becomes more overgrown with grass, brush, and thick growths of moss. Very little regeneration is possible in thick accumulations of grass/moss vegetative matt. Occasionally spruce regeneration forms on rotting logs or after wind throw exposes mineral soil. This small amount of regeneration typically will not maintain the existing forest environment. In this environment, tree growth continues to decline, regeneration is sparse, soils become colder due to insulating accumulations of grass/moss, and tree stocking levels decline. Beyond 200 years of age, birch in the timber stand has all but died out, and spruce continues to be affected by all factors of mortality.

Shelter wood or seed tree timber harvests open the forest floor to sufficient sunlight promoting good spruce tree growth. Timber harvests that mimic natural regenerative processes such as wildfire or flooding, and are accompanied by timely site preparation by removing thick accumulations of vegetative mat to expose mineral soil while conserving the A soil horizon, have proven to be highly effective regenerating birch/spruce forests in South-central, and Interior Alaska (Densmore and Page 1992).

B. Current Land Use

Public lands nearby and adjacent to the proposed sale area are being managed for forestry, wildlife habitat, coal mining, and public recreation. Trails put in by miners, loggers, and homesteaders cross through the area.

The existing old roads and trails are an important component of these multiple uses. No mining is currently going on at this time. Use of the existing old logging, mining, settlement roads and trail infrastructure is currently being made by hunters, ATV's, ORV's, hikers, skiers, horse back riders, mountain bikers, motocross riders, mushers, and other recreationalists. The area is not unique to any form of land use in the Mat-Su except as land where wildlife habitat and forest management may actively occur providing improved habitat and wood products from state owned lands.

C. Wildlife habitat

Numerous wildlife species are normally present within the entire planning area. These species include: moose, black and brown bear, spruce grouse, ruffed grouse, ptarmigan, fur-bearing animals, and various birds. The DOF has consulted with the local office of the Fish & Game, Division of Wildlife Conservation, and the Habitat Division to determine that no endangered,

threatened, special or unique wildlife species or raptor nests are known to exist in the sale area. Additionally, this entire FLUP will be reviewed by those resources agencies.

Unit size, shape, and position are designed to consider the needs of wildlife common to the area and especially for moose habitat as envisioned within the *MVMR*. Silvicultural methods are designed to regenerate cut units with vigorously growing forests of birch and other hardwoods for moose browse and the reforestation of this area to a younger stage of forest growth for habitat diversity.

The primary goal of the *MVMR* is to provide among other things, the maintenance, improvement, and enhancement of moose and other wildlife populations and habitat. This timber harvest proposes to harvest approximately 83 acres of timber and regenerate this unit back to a younger, more diverse habitat for wildlife by the regeneration of the area using excavator and dozer scarification applied within one year of the harvest and or concurrently with harvest. Residual seed trees (2 to 4 birch/acre) and trees not harvested for whatever reason will also provide seed source, habitat (snags/perching), and cover for wildlife. The most important consideration in the implementation of this harvest will be the prompt and timely application of scarification during and just after harvesting. This will expose mineral soil to natural seed fall, provide for prompt germination, encourage seedling escapement, and provide for the successful reforestation of this unit to an early successional stage of a birch/spruce forest.

Additional to seed trees, birch and spruce snags will be retained to provide wildlife habitat for cavity-nesting birds, woodpeckers, small mammals, and other species requiring perching habitat. Residual shrub communities such as alder, devil's club, and vigorously growing young willow will be retained for wildlife habitat and protected from scarification. Spruce smaller than 10" dbh and birch smaller than 6" dbh will be retained within each unit by contract to also provide seed source and habitat. Cottonwood larger than 30" dbh will not be cut in this harvest but will be retained for wildlife habitat.

Birch is the primary tree species present within this proposed timber harvest and it is important not only for the timber industry, but also as browse for mammals including moose, and snowshoe hares, which are dependent on young hardwoods (early successional stage) for food, and the animals themselves are, in turn, major food sources for predators (Collins, 1996). In South-central Alaska, the most significant factor promoting the maintenance of early successional vegetation has been human caused wildfire. Fire suppression during the last several decades to protect lives and property has limited wildfire as a viable mode of hardwood forest regeneration. Fire suppression has changed the diversity and productivity of boreal habitats and their wildlife (Collins, 1996). Reduction of over-story and ground covers by logging or land clearing if properly applied can mimic the natural disturbances which stimulate hardwoods.

Wildlife such as moose and ruffed grouse dependant on some portions of their habitat to include early successional stages will benefit from the disturbance and subsequent browse regenerated. Buffers, timber retention zones, and leave areas should continue to support species adapted to

the late successional forest types. Buffers also act as travel corridors and provide cover for wildlife (Collins, ADFG, pers. comm.).

It is generally accepted that the nutritious parts of principal tree or tall shrub species grow out of reach of moose within 20 years. If not topped by browsing or other mechanical means, the critical height may be reached at 9 or 10 years of age (Collins, 1996).

Scarification will be performed in the harvested timber sale unit utilizing a seed tree harvest system which will open this forest to allow sufficient sunlight on the forest floor to promote germination and growth of hardwoods, including birch, aspen, and willow. Scarification will be contractually required to expose mineral soil to promote the germination and growth of hardwoods. (For more information about scarification, see the following sections of this document: A.5. Silvics of birch trees and J. Regeneration.) This method of site preparation for natural regeneration will be required in the contract as part of the timber sale. It is anticipated that this timber harvest, with site preparation will regenerate the entire unit back to moose browse in the form of regenerating hardwood forest vegetation. Regenerating hardwoods will provide moose browse until the new growth of trees, grow beyond the ability of moose to successfully reach and browse.

The timber sale unit has been designed and laid out with uneven edges to benefit wildlife, take into account topography and focus on merchantable timber. No wetlands occur in or directly adjacent to the unit and harvesting will not take place within 100 feet of Class I and II wetlands (wetlands larger than 40 acres).

Harvesting is not expected to cause significant negative impacts on wildlife populations in the area. There are extensive adjacent areas designated legislatively, which allow no timber harvest within the immediate area (Chugach State Park, Hatcher Pass).

Based on existing U.S. Fish and Wildlife Service eagle nest tree maps and field observations, there are no known eagle nest trees in the sale area. Should an eagle nest tree be discovered in the sale area, DOF will notify the U.S. Fish and Wildlife Service with the location of the nest tree. The eagle nest tree will be marked on the ground and a no less than 330-foot no-harvest radius will be established to protect the nest tree.

Species of concern

DOF consulted the Alaska Division of Wildlife Conservation's endangered and threatened species list. The Division of Wildlife Conservation lists the following species as "species of special concern," however:

Northern Goshawk
American and Arctic Peregrine Falcon
Spectacled Eider
Olive-sided Flycatcher
Gray-cheeked thrush
Townsend's warbler
Blackpoll warbler
Brown Bear on the Kenai Peninsula

Stellar's Eider
Aleutian Canada Goose
Stellar Sea Lion
Harbor seal
Beluga Whale Cook Inlet population
Bowhead whale
Sea Otters
Chinook salmon, Snake River population

Four "Species of Special Concern" have ranges which include the sale area. Peregrine Falcons nest throughout interior Alaska, especially on cliffs along rivers and near lakes. This sale area does not have optimal nesting sites and should not significantly impact peregrines. Should nests be found in the sale area, ADFG biologists will be advised, and DOF will implement any protective measures that may be required.

The Olive-sided Flycatcher also has a summer range overlapping the sale area. This migratory bird nests in coniferous forests and is associated with open areas within the forest including logged areas. Biologists are mostly concerned with the dwindling winter habitat in the Andean valleys of South America. The sale area is predominately a birch forest and would therefore not be prime habitat for these species and, if observed, would be incidental.

Like the flycatcher, the Gray-cheeked thrush and the Townsend's and Blackpoll warblers are migratory species commonly found in coniferous forests. The sale area is predominately a birch forest and would therefore not be prime habitat for these species.

Moose

This area has not had a timber harvest in more than 15 years. Regeneration enhanced for moose browse in this portion of the *MVMR* has been significantly over browsed causing extensive mortality to the regenerating forest. Instituting a new timber sale with scarification is expected to provide new, additional and greater amounts of moose browse and cover in the form of regenerating birch trees. Over browsed birch, willow, aspen, and cottonwood that is still alive from previous timber harvesting may recover and escape the shrubby stage caused by browsing to become trees that regenerate a forest habitat. Moose will benefit from increased additional browse. Moose move throughout the area at all times of the year and are especially attracted by hardwood regeneration created as a direct result of logging with scarification, and wildfire.

The mosaic of regenerating birch browse, adjacent leave areas between harvest units, and no-harvest zones is expected to create better conditions for wintering moose than conditions that currently exist.

The Division of Wildlife Conservation has stated that a properly scarified timber sale will encourage the regeneration of moose browse, and should improve the quality of moose habitat in the area of harvest.

There is an increasing demand by local residents for improved wildlife habitat for hunting and subsistence activities. Creating habitat that draws moose away from public road systems and the Glenn Highway corridor is a stated goal of the Moose Collision Mitigation Committee. This is a public safety effort to reduce moose/auto collisions and has been recognized by the Governors Office and the Legislature as a major safety concern all along the Glenn Highway Corridor and south of Mile Post 132 of the Parks Highway.

D. Subsistence

Although this is not a designated subsistence zone, moose are an important subsistence source of meat to many families in the area. The following subsistence uses may occur on lands in state ownership: fishing, trapping, hunting and gathering of berries. Timber harvesting is not anticipated to have significant deleterious effects on the above activities. The timber sale unit was designed to regenerate new growths of sapling-sized hardwoods by the timely and appropriate application of scarification for regeneration that should increase moose browse.

E. Recreation

Recreation uses within this area are provided by access. The area is not known to have unique tourism values. There are no aircraft access points within the proposed sale area. This area is used by ATV's, snowmobiles, hikers, hunters, dog mushers and others. The forestry road, and trail systems created by a prior history of mining, logging and settlement in this area is already known to be used by hunters, hikers, dog mushers, snowmobiles, ATV's, berry pickers, and personal use wood-cutters. Harvest operations will be conducted to protect those values for future use.

F. Scenic resources

Visual impact from harvesting will not change as seen from any public road. The harvest unit is more than 1 mile off the Glenn Highway. The rolling nature of the topography will obscure harvest activity from the highway system.

Harvesting may be visible from the air. However, the harvest unit is laid out with uneven edges to benefit wildlife and regeneration, and this will make it look more natural from the air. Unit shape should look very similar to forested muskeg areas.

G. Cultural resources

There are no known cultural or historic sites within or adjacent to the timber sale. Areas identified as historic, archaeological, or paleontological sites are protected as outlined in the Susitna Area Plan. During the course of activities associated with timber harvesting, cultural and/or paleontological resources may be inadvertently discovered. Should a discovery occur, the site shall be protected from any disturbance, and SHPO will be contacted immediately so compliance with State laws governing cultural resources may begin.

Under the Alaska Historic Preservation Act (41.35.200), all burials on State land are protected. If burials or human remains are found, all land altering activities that would disturb the burial or remains shall cease and measures will be taken to protect it in place. The Office of History and Archaeology and a law enforcement officer will be notified immediately to ensure that proper procedures for dealing with human remains are followed.

H. Sustained yield and allowable cut

The Alaska Forest Resources and Practices Act (AFRPA) [AS 41.17.060 (c)] and Article VIII Sec. 4 of the State Constitution require that State forest land be managed on a sustained yield basis. Sustained yield is defined in the AFRPA (AS 41.17.950(15)): "Sustained Yield" means the achievement and maintenance in perpetuity of a high level of annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water, but does not require that timber be harvested in a non-declining yield basis over a rotation period.

The Annual Allowable Cut (AAC) is the amount that can be harvested from forest land managed for forestry purposes in a year under a sustained yield management. The AAC in the Mat-Su Area is based on a five year average. This sale complies with sustained yield/allowable cut principles outlined in the Anchorage/Mat-Su Area Five-Year Schedule of Timber Sales for FY 2007 through 2011. The AAC for the Mat-Su area is approximately 1000 acres. The AAC will not be exceeded with this sale due to minimal harvest activity in the previous five years.

I. Regeneration

Successful natural forest regeneration of birch requires full sunlight to reach seedlings on the forest floor. Birch seedlings establish themselves by seed fall on mineral soil and to a lesser degree by stump sprouting. Mineral soil is essential for birch seed germination, and seedling survival. Nearly full sunlight is essential for birch tree growth and successful birch forest stand establishment in Alaska. Birch seed is available every year or two. Birch stands naturally regenerate after wildfire kills the over story of birch and spruce. Fire opens the site to nearly full sunlight, exposes mineral soil to seed fall from adjacent live birch, and allows birch stumps to sprout where fire has killed off the above ground tree but has not entirely killed the root system.

Regeneration of white spruce occurs only from seeds. White spruce trees generally produce some level of a seed crop every three to five years and large seed crops every five to seven years. White spruce seeds germinate best on mineral soil, but may also germinate on dead and down decaying trees, and on decaying stumps. Site scarification that exposes mineral soil and planting of white spruce seedlings is generally very successful at producing an even-aged stand of white spruce. However, birch may reseed naturally in the scarified and planted area, and may become the predominant forest stand tree for many years, since birch initially grows faster than white spruce. White spruce trees are shade tolerant and do not need full sunlight to grow. Over time, the combination of birch and spruce will result in the establishment and dominance of

naturally occurring, uneven-aged white spruce trees in a stand. See section A.4 Silvics of birch trees, for more information on birch regeneration.

Seedling mortality on these soil types is described as slight however frost action susceptibility is described as moderate. Plant competition is high on these sites and competitive plant species such as blue joint reed grass (*Calamagrostis canadensis*) which is able to displace seedlings. Scarification will be required to offset severe plant competition as described. Late spring, early summer and after leaf fall in autumn is suggested for meeting scarification requirements, and these times of the year will be targeted for site preparation using scarification to address reforestation issues and statutory requirements for reforestation.

It is generally accepted that the nutritious parts of principal tree or tall shrub species grow out of reach of moose within 20 years. If not topped by browsing or other mechanical means, the critical height may be reached at 9 or 10 years of age (Collins, 1996). This harvest (83 acres proposed) will likely help to spread browsing over more of the entire area and aid in actual reforestation of the area to forest cover for the future. Certain areas have been over browsed due to infrequency of logging, a ten-year slump in the market demand for birch, and the small size of infrequent partial cutting that selected mainly for spruce. Collins (1996) noted that the availability of browse may last for a shorter time if the tree's height growth is not retarded by browsing or other damage. He used the abandoned Point Mackenzie Agricultural Project as an example where the old fields reforested in hardwoods and produced excess browse relative to the moose population. The young hardwoods were lightly browsed and quickly outgrew the browse line. Collins and Schwartz, in their (1998) management recommendations, state that "to enhance early successional moose habitat in hardwood and spruce-hardwood stands in Alaska," increased regeneration of hardwood will "lessen the probability that individual hardwoods will be damaged or stunted by browsing."

Timber sale contracts will require site scarification to ensure adequate natural regeneration to meet the reforestation standards in the *AFRPA* (11 AAC 95.375 - .390). Scarification will be required by contract to expose at least 50% mineral soil of the harvested unit. Areas should be scarified no later than two growing seasons following completion of harvest to minimize grass invasion. Mineral soil patches should be exposed uniformly over the harvested area to encourage uniform distribution of regeneration. Mineral soil patches should be as large as possible.

J. Harvest methods

A portion of the proposed unit was previously harvested utilizing a partial or selective cut of mature white spruce. Previous harvesting occurred approximately 15 years ago. Partial cutting of mature spruce in portions of this currently proposed timber sale helped release residual spruce left in the stand, but did little to improve over mature birch trees left in the same area.

The currently proposed harvest unit will utilize a **modified seed tree harvest system**. **S**pruce 10" DBH or larger and birch trees 6" DBH and larger would be cut and removed. The modified seed tree harvest system is the preferred harvest system for this sale because further selective harvest or partial cutting will not provide as positive an increase in all management values including future timber products, additional moose browse production, or forest stand regeneration. Additional partial or selective cutting will at the current stage of this forests stand development only enable further decline and mortality of a healthy and diverse birch – spruce forest.

Approximately 10% of the harvest unit will be retained in smaller sized birch and spruce by the diameter restrictions. In addition 2-4 of the best mature trees/acre including dominant and co-dominants of both species will be left uncut by contract, for seed trees, wildlife habitat, and aesthetics.

Birch will be sold by the cord (90 cubic feet of wood). Merchantability of all size classes of birch was determined by the DOF based on current market conditions for birch firewood. The auction bid price is expected to be higher due to the increased demand for firewood. Utilization of birch within this timber sale due to its location, and current market demand, is expected to be for fuel wood, and saw timber. It is possible that a demand for chips or pellets may occur during the life of this timber sale.

1. Harvest units. The sale area in Section 25 consists of one (1) harvest unit of 83 acres in size. Based on the area size, the goal to encourage successful forest escapement, provision of browse for moose, and market demand, the Division determined the best configuration for this timber harvest is to offer it as a single 83 acre unit. Harvest methods will follow the statutes of the Alaska Forest Resources and Practices Act and Regulations (AFRPA). The larger birch snags and residual birch less than six inches diameter at breast height will not be cut whenever safety conditions allow. Residual trees should be protected from damage during harvest operations. Aspen and willow in the units will be cut incidental to the timber harvest to encourage prolific regeneration from root and stump sprouts for moose browse. All season harvesting of the unit will be encouraged as the road systems allow, to encourage site scarification for regeneration. Cottonwood trees larger than 30" dbh will be retained in the unit for wildlife habitat.

2. Logging. Hand falling using chain saw and or mechanical falling using feller bunchers will harvest timber in the unit. Rubber tired and tracked grapple skidders, line skidders, delimbers, forwarders, and dozers will be employed to forward timber to landing areas to be trucked from the timber sale area.

3. Slash. Limbs and tops will be severed and scattered to decompose in the units. If burning was utilized to dispose of slash, an open-burning permit may be required from DEC to ensure dispersal of airborne emissions. This permit if required will be the responsibility of the purchaser. Slash accumulated from logging operations may be burned as proposed for disposal by the purchaser in the operating plan.

4. Hours of operation. The timber sale contract will specify the "hours of operation" in the Operating Plan developed by the purchaser and the DOF as may be applicable to current conditions in the area with regard to public safety. Hauling activities will be controlled by the State through the timber sale contract. The Purchaser will be required to submit a hauling schedule and DOF approval will required.

5. Invasive species. Summer or winter harvesting activities have a low likelihood of spreading invasive seeds from plants that are already present in the area. However, by contract the timber harvest equipment must be power-washed to remove invasive species seeds before equipment will be allowed on-site or into the timber sale area. The harvesting contractor will be required within the timber sale contract to have each off-site piece of logging equipment inspected by the DOF prior to moving into or onto the timber sale area.

The all season access anticipated within the *Seventeen Mile Moose Timber Sale* is far enough away from the Glenn Highway that there is little danger invasive plant seeds from the highway will be blown into the units.

K. Transportation

The previously constructed road that proceeds north off of All Elks Road and runs between Sections 25 & 26 was constructed to avoid sensitive vegetative cover types such as riparian zones, wetlands, ponds, and naturally occurring forest openings wherever practical. No stream crossings or infringement of water body buffers occur anywhere along its length to access the adjacent timber. The road will be improved and maintained to standards set out in the AFRPA [11 AAC 95.290, Road Construction]. Specific maintenance requirements for the road during timber harvest operations will be incorporated into the timber sale contract. The purchaser will be contractually responsible for entering into road maintenance agreements with State Forestry as necessary to maintain this Main Haul Road during harvest or hauling operations. Log truck traffic, hauling and logging support transportation to and from the timber sale area will be accessed on the existing road that runs north between Sections 25 & 26 and then roughly northeast and southwest diagonally through state land in the north half (N ½) of Section 25.

The *Seventeen Mile Moose* Timber Sale Area and trail/logging road systems is utilized in season by ATVs, snowmobiles, personal firewood cutters, hunters, hikers and other various recreationalists. Using ATVs on state land does not require a permit; it is a generally allowed use, as long as vehicles do not break through the vegetated mat or significantly rut the road surface.

Access to the proposed harvest unit and timber sale will be on the reopened main haul road described above from the All Elks Road. Logging spur roads and skid trails will generally be reopened from previous harvest operations and personal use that has occurred in past years. The road and trail system is currently being used by highway vehicles. The main haul road described above will be improved and maintained in accordance with the AFRPA standards (11 AAC 95.320). On this timber sale the Main Haul Road in Section 25 described above will be treated as such:

- Roads and ditches will be left in a condition that will control erosion.
- In areas accessible to highway vehicles, the road surface will be maintained or improved in at least as good a condition as before access by commercial logging.
- Turnouts, pullouts and parking areas currently along the main haul road will be constructed, reconstructed or improved to allow safe access by all participants. The imposed speed limit by commercial logging vehicles will be 5 miles/hour until the state or borough maintained All Elks Road is accessed, when speed limits in place will apply.
- All logging roads, skid trails, and roads of any kind off the main haul road (see map) will be blocked and closed to access by 4 wheeled highway vehicles after the logging contract has expired.

In addition to closing the secondary roads off the main haul road to highway vehicles, the DOF will specify in the contract that the entrances to these roads must be blocked using dozer humps (Kelly humps, tank traps etc.) so that access is denied by street legal vehicles. ATV use in the area will likely not significantly change from the present use, because users have independently developed trail access to the area, and are not dependent on roads to reach desired destinations.

The Purchase will follow Matanuska-Susitna Borough trucking and timber harvest regulations and obtain the required permits as part of the timber sale contract.

L. Erosion

Erosion potential is high on the steeper soils when the vegetative matt is removed over large areas. When scarifying or building logging skid trails within units it is best to move across slope, as opposed to straight up and down, to reduce potential erosion hazard. When scarifying it is best to only just expose the topmost layer of soil just below the organic matt.

There are typically two soil erosion concerns: surface erosion and mass wasting of soil and debris. Road construction and poor maintenance of roads primarily causes surface erosion. For economic and environmental reasons, the amount of road reconstruction has been minimized. Winter use of reopened roads may be utilized and all roads will avoid steep slopes. The logging roads will follow the natural contours and benches in the area and are located on flat or moderate slopes of less than 25 percent. The roads were kept off steeper slopes and located not only minimize soil erosion from road construction, but also to minimize erosion due to logging. The location of the roads optimizes skidding distance and will provide adequate landing areas as approved by the field forester for the DOF in the field.

The AFRPA slope stability standards and ground skidding BMPs will be adhered to at all times, as well as the BMPs for winter road construction. The AFRPA will be implemented to protect the current hydrologic pattern. This will include, but not be limited to vegetative or other stabilization of exposed soils and proper road maintenance and closure at the end of the season and contract closure. The DOF timber sale forester will ensure, with frequent field inspections, compliance with the timber sale contract and the AFRPA. Proper road maintenance on active,

inactive, and closed roads will be followed. Finally, all roads will be closed out at the end of harvest operations as directed by the Division of Mining, Land and Water.

The other aspect of erosion (mass wasting and debris avalanches) normally occurs on slopes of more than 70 percent. The DOF has determined that the mass wasting potential is nonexistent because slopes are generally mild and timber harvest areas are not on slopes greater than 67 percent.

M. Mining

There is little known current mining activity in this area. Other than providing access and sharing some of the same access roads, this sale will have no impact on the potential mining resources or mining activity in this area. Coal mining was practiced in the past in the surrounding area many years ago, and current coal mining leases currently exist.

N. Materials

No rock materials will be required for road construction. The purchaser will be required to obtain the necessary permits to withdraw water from stream sources in the sale area if that is considered an operational necessity during the preoperational meeting or timber sale administration. The quantity of water if required is not anticipated to be significant.

O. Economics

In addition to generating royalties to the state's general fund, the proposed sale will create economic benefits to the Matanuska-Susitna Borough and to other locations in Alaska. The Borough business community will receive direct economic benefits from providing support services for the operators through sales of fuel, food, housing, medical and miscellaneous supplies. The residents of the Borough will receive an indirect benefit through property taxes paid to the Borough by the operator and employees during the course of the timber harvest operation.

The timber sale is expected to benefit the local economy by providing jobs. In addition, it should have a positive impact on statewide employment by generating several thousands of man-hours of work directly associated with the harvesting, wood processing, and scarification for regeneration operations in these timber sale units.

The increase in production of moose browse by regenerating birch/spruce forests for the future is expected to directly benefit the public within the local area with an increased potential to harvest moose for subsistence.

Commercially harvesting these units will provide increased access opportunities for the public to cut personal use firewood, which is often limited by access.

As moose browse is regenerated in harvest units the first 10 to 20 years it is anticipated that additional browse created in the harvest units will tend to draw moose away from highways and transportation corridors. By creating browse away from road systems it is hoped this will help

save human lives, lower medical costs due to injury, and reduce property damage caused by moose/automobile collisions.

V. MARKET CONDITIONS

To help stabilize the local wood products industry, the DOF has been directed by the Governor and Legislature to make a consistent and sustainable timber supply available for market.

The local market demand for spruce and birch wood products especially fuel wood is increasing and expected to remain strong in the future. The current local market for high value added forest products includes kiln dried lumber for flooring, trim, paneling, novelty wood products, cabinets, and furniture. Other wood products include rough-cut lumber, cabin logs, firewood for home heating, pellets, etc. Several businesses in this end of the Matanuska Valley derive their livelihood from log cabin construction, lumber sales and local firewood demands.

The wood chip market at this time has been replaced by a greater need and demand for personal and commercial use fuel wood. Low value birch common in an older growth forest found in this vicinity, is not well suited for high value added lumber, yet it may be more fully utilized as fuel wood, and likely in the future as wood pellets for home heating, bio-fuel and export opportunities.

Better utilization of low value birch for fuel wood has also encouraged harvest for improved forest timber stand & wildlife habitat conditions. The better utilization of wood with the presence of a stronger demand for firewood and the possibility of an expanded demand for more efficient wood pellets in the future should help provide better harvesting and reforestation economics due to a more diverse market.

VI. ALTERNATIVE ACTIONS

There are four possible alternatives to consider for these proposed sales. A discussion of each of the four alternatives follows:

1. To continue the sales as proposed. This alternative meets the objectives of the Five-Year Schedule of Timber Sales and DNR's constitutional mandate. It also meets the silvicultural objective of improving forest vigor, provides for a value-added end product, creates additional job opportunities in Alaska due to the combination of road rebuilding, logging, and trucking, and provides significantly improved wildlife habitat including moose browse. This alternative also complies with the management objectives of the *Matanuska Valley Moose Range Plan* and the intents of the *Susitna Area Plan*, allowing for better utilization and regeneration of the existing and future birch/spruce forest, and the provision of additional moose browse in an area away from highways, rail-roads, and other high-use transportation corridors.

2. To further modify the sales by making them smaller or larger. This sale consists of 1 unit. The unit is in a logical setting for typical commercial logging equipment of the region and will provide the purchaser with enough capital return to construct the infrastructure needed to access the unit. The size of the unit is designed to be large enough to be economically viable for mechanical logging methods. Increasing the unit size is not practical. Decreasing the size of the unit would increase logging costs or leave timber that would be more difficult to harvest in

the future. This proposed sale is of an adequate size to cover the costs to reopen and improve the existing main haul roads and cover mobilization costs to operate in the *Matanuska Valley Moose Range*. This sale is appropriately balanced to maintain other resource values such as improved habitat and recreation potential as well as provide economic benefits to the Mat-Su Valley.

3. Defer the sale of this timber to a later date. Deferring harvest to a later date would fail to meet many of the objectives of the sale program. One of the main objectives is to make State-owned timber consistently available to the timber industry.

4. Not offer this timber for sale. This alternative would result in not meeting any of the objectives outlined for this management action. Utilization of the forest resource would not be achieved. There would be no significant contribution to the State and local economies. This alternative would delay the management objectives planned for the area, would deny making a source of raw materials available to the local wood products industry, and would delay the improvement of any wildlife habitat for moose browse in the *MVMR*. Loss of timber value in this older forest would not be readily replaced by young growth due to the number of dead trees, mature trees, wind throw & breakage, disease infected trees, and trees at risk to insect infestation. Decay in infected and infested mature spruce and birch trees results in loss of economic value. Loss of opportunity to regenerate the new forest or create moose browse would be a set back to the overall objectives of this plan and the *MVMR* Plan.

VII. ACMP CONSISTENCY ANALYSIS

This area is not within the Matanuska-Susitna Borough's District Coastal Management Plan and therefore a consistency review is not required.

VIII. PRELIMINARY FINDING AND DECISION

The purpose of this decision is to determine if the Department of Natural Resources, Division of Forestry, will make available timber located in the North ½ of Section 25, T19N, R2E, in the Seward Meridian. After due consideration of all pertinent information and alternatives, the DNR has reached the following **Preliminary Decision: To offer the sale as proposed in Alternative 1**. In addition, the DNR finds that this preliminary decision satisfies the objectives as stated in this document and it is in the best interest of the State to proceed with this action.

Signature on File

_____ _____

Ken Bullman Date

Mat-Su/Southwest Area Forester

Abbreviations

ADFG: Alaska Department of Fish and Game
AAC: Annual Allowable Cut
BMPs: Best Management Practices
DBH: diameter at breast height
DEC: Department of Environmental Conservation
DNR: Dpartment of Natural Resources
DOF: Division of Forestry
DOT/PF: Department of Transportation/Public Facilities
FF: Final Finding (Forest Land Use Plan)
FLUP: Forest Land Use Plan
FRPA: Alaska Forest Resources and Practices Act
FYSTS: Five Year Schedule of Timber Sales
OHMP: Office of Habitat Management and Permitting
PD: Preliminary Decision (Forest Land Use Plan)
SHPO: State Historic Preservation Office
SFG: Susitna Forestry Guidelines

Works Cited

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Safford L. 0. 1983. *Silvicultural Guide for Paper Birch in the Northeast* (revised). USDA Forest Service, Research Paper NE-535. Northeastern Forest Experiment Station, Broomall, PA.

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Zasada, John C., and David Grigal. 1978. *The effects of silvicultural system and seedbed preparation on natural regeneration of white spruce and associated species in Interior Alaska. In* Proceedings, Fifth North American Forest Biology Workshop. p. 213-220. C. A. Hollis, and A. E. Squillace, eds. University of Florida, School of Forest Resources, Gainesville.

Densmore, Roseann V., and James C. Page. 1992. Paper Birch Regeneration on Scarified Logged Areas in South-central Alaska. North. J. Appl. For. 9(1992):63-66.

Links to Planning Documents

Susitna Area Plan:
http://www.dnr.state.ak.us/mlw/planning/areaplans/susitna/index.cfm

Susitna Forestry Guidelines:
http://www.dnr.state.ak.us/mlw/planning/mgtplans/susitna_forestry_guidelines/index.htm

Appeal and Request for Reconsideration Regulations

Note: "Appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign. "Request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned. [11 AAC 02.900, Definitions, below.] This Final Finding has been signed by the commissioner.

TITLE 11. NATURAL RESOURCES.

CHAPTER 02. APPEALS.

11 AAC 02.010. APPLICABILITY AND ELIGIBILITY. (a) This chapter sets out the administrative review procedure available to a person affected by a decision of the department. If a statute or a provision of this title prescribes a different procedure with respect to a particular decision, that procedure must be followed when it conflicts with this chapter.

(b) Unless a statute does not permit an appeal, an applicant is eligible to appeal or request reconsideration of the department's decision on the application. An applicant is eligible to participate in any appeal or request for reconsideration filed by any other eligible party.

(c) If a statute restricts eligibility to appeal or request reconsideration of a decision to those who have provided timely written comment or public hearing testimony on the decision, the department will give notice of that eligibility restriction as part of its public notice announcing the opportunity to comment.

(d) If the department gives public notice and allows a public comment period of at least 30 days on a proposed action, and if no statute requires opportunity for public comment, the department may restrict eligibility to appeal or request reconsideration to those who have provided timely written comment or public hearing testimony on the proposed action by including notice of the restriction as part of its public notice announcing the opportunity to comment.

(e) An eligible person affected by a decision of the department that the commissioner did not sign or cosign may appeal the decision to the commissioner within the period set by 11 AAC 02.040.

(f) An eligible person affected by a decision of the department that the commissioner signed or cosigned may request the commissioner's reconsideration within the period set by 11 AAC 02.040.

(g) A person may not both appeal and request reconsideration of a decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 44.37.011
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.15.020
	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.17.030

11 AAC 02.015. COMBINED DECISIONS. (a) When the department issues a combined decision that is both a final disposal decision under AS 38.05.035(e) and any other decision, including a disposal decision combined with a land use plan decision, or a disposal decision to grant certain applications combined with a decision to deny others, the appeal process set out for a disposal decision in AS 38.05.035(i) - (m) and this chapter applies to the combined decision.

(b) A decision of the department may include a statement that a final consistency determination under AS 46.40 (Alaska Coastal Management Program) has been rendered in conjunction with the decision. A person may not, under this chapter, appeal or request reconsideration of the final consistency determination, including a requirement necessary solely to ensure the activity is consistent with the Alaska coastal management program as approved under AS 46.40. (Eff. 9/19/2001, Register 159)

Authority:	AS 29.65.050	AS 38.04.900	AS 38.05.035	AS 38.09.110
	AS 29.65.120	AS 38.05.020	AS 38.08.110	AS 38.50.160

11 AAC 02.020. FINALITY OF A DECISION FOR PURPOSES OF APPEAL TO COURT. (a) Unless otherwise provided in a statute or a provision of this title, an eligible person must first either appeal or request reconsideration of a decision in accordance with this chapter before appealing a decision to superior court.

(b) The commissioner's decision on appeal is the final administrative order and decision of the department for purposes of appeal to the superior court.

(c) The commissioner may order or deny a request for reconsideration within 30 calendar days after issuance of the decision, as determined under 11 AAC 02.040(c)-(e). If the commissioner takes no action during the 30-day period, the request for reconsideration is considered denied. Denial of a request for reconsideration is the final administrative order and decision of the department for purposes of appeal to the superior court.

(d) If the commissioner timely orders reconsideration of the decision, the commissioner may affirm the decision, issue a new or modified decision, or remand the matter to the director for further proceedings. The commissioner's decision, other than a remand decision, is the final administrative order and decision of the department for purposes of appeal to the superior court. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 44.37.011
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.15.020
	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.17.030

11 AAC 02.030. FILING AN APPEAL OR REQUEST FOR RECONSIDERATION. (a) An appeal or request for reconsideration under this chapter must

(1) be in writing;

(2) be filed by personal service, mail, fax, or electronic mail;

(3) be signed by the appellant or the appellant's attorney, unless filed by electronic mail; an appeal or request for reconsideration filed by electronic mail must state the name of the person appealing or requesting reconsideration and a single point of contact to which any notice or decision concerning the appeal or request for reconsideration is to be sent;

(4) be correctly addressed;

(5) be timely filed in accordance with 11 AAC 02.040;

(6) specify the case reference number used by the department, if any;

(7) specify the decision being appealed or for which reconsideration is being requested;

(8) specify the basis upon which the decision is challenged;

(9) specify any material facts disputed by the appellant;

(10) specify the remedy requested by the appellant;

(11) state the address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed; an appellant may also provide a telephone number where the appellant can be reached during the day or an electronic mail address; an appeal or request for reconsideration filed electronically must state a single address to which any notice or decision concerning the appeal or request for reconsideration is to be mailed;

(12) identify any other affected agreement, contract, lease, permit, or application by case reference number, if any; and

(13) include a request for an oral hearing, if desired; in the appeal or request for reconsideration, the appellant may include a request for any special procedures to be used at the hearing; the appeal or request for reconsideration must describe the factual issues to be considered at the hearing.

(b) At the time an appeal is filed, and up until the deadline set out in 11 AAC 02.040(a) to file the appeal, an appellant may submit additional written material in support of the appeal, including evidence or legal argument.

(c) If public notice announcing a comment period of at least 30 days was given before the decision, an appellant may not submit additional written material after the deadline for filing the appeal, unless the appeal meets the requirement of (a) of this section and includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

(1) comments already received from the appellant and others;

(2) whether the additional material is likely to affect the outcome of the appeal;

(3) whether the additional material could reasonably have been submitted without an extension;

(4) the length of the extension requested;

(5) the potential effect of delay if an extension is granted.

(d) If public notice announcing a comment period of at least 30 days was not given before the decision, an appellant may submit additional written material after the deadline for filing the appeal, if the appeal meets the requirements of (a) of this section and includes a notice of intent to file the additional written material. The department must receive the additional written material within 20 days after the deadline for filing the appeal, unless the appeal also includes a request for an extension of time, and the department determines that the appellant has shown good cause for an extension. In considering whether the appellant has shown good cause, the department will consider factors including one or more of the following:

(1) comments already received from the appellant and others;

(2) whether the additional material is likely to affect the outcome of the appeal;

(3) whether the additional material could reasonably have been submitted without an extension;

(4) the length of the extension requested;

(5) the potential effect of delay if an extension is granted.

(e) At the time a request for reconsideration is filed, and up until the deadline to file a request for reconsideration, an appellant may submit additional written material in support of the request for reconsideration, including evidence or legal argument. No additional written material may be submitted after the deadline for filing the request for reconsideration.

(f) If the decision is one described in 11 AAC 02.060(c), an appellant who believes a stay of the decision is justified may ask for a stay as part of the appeal or request for reconsideration. The appellant must include an argument as to why the public interest requires a stay. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 44.37.011
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.15.020
	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.17.030

Editor's note: The address for an appeal or request for reconsideration by personal service and by mail is: Department of Natural Resources, Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501-3561. The number for an appeal or request for reconsideration by fax is: 1-907-269-8918. The electronic mailing address for an appeal or request for reconsideration by electronic mail is: dnr_appeals@dnr.state.ak.us

11 AAC 02.040. TIMELY FILING; ISSUANCE OF DECISION. (a) To be timely filed, an appeal or request for reconsideration must be received by the commissioner's office within 20 calendar days after issuance of the decision, as determined under (c) or (d) of this section, unless another period is set by statute, regulation, or existing contract. If the 20th day falls on a day when the department is officially closed, the appeal or request for reconsideration must be filed by the next working day.

(b) An appeal or request for reconsideration will not be accepted if it is not timely filed.

(c) If the appellant is a person to whom the department delivers a decision by personal service or by certified mail, return receipt requested, issuance occurs when the addressee or the addressee's agent signs for the decision. If the addressee or the addressee's agent neglects or refuses to sign for the certified mail, or if the address that the addressee provided to the department is not correct, issuance by certified mail occurs when the decision is deposited in a United States general or branch post office, enclosed in a postage-paid wrapper or envelope, addressed to the person's current address of record with the department, or to the address specified by the appellant under 11 AAC 02.030(a)(11).

(d) If the appellant is a person to whom the department did not deliver a decision by personal service or certified mail, issuance occurs

(1) when the department gives public notice of the decision; or

(2) if no public notice is given, when the decision is signed; however, the department may state in the decision a later date of issuance and the corresponding due date for any appeal or request for reconsideration.

(e) The date of issuance constitutes delivery or mailing for purposes of a reconsideration request under AS 44.37.011(d) or AS 44.62.540(a). (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 44.37.011
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.15.020
	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.17.030

11 AAC 02.050. HEARINGS. (a) The department will, in its discretion, hold a hearing when questions of fact must be resolved.

(b) The hearing procedure will be determined by the department on a case-by-case basis. As provided in 11 AAC 02.030(a)(13), any request for special procedures must be included with the request for a hearing.

(c) In a hearing held under this section

(1) formal rules of evidence need not apply; and

(2) the hearing will be recorded, and may be transcribed at the request and expense of the party requesting the transcript. (Eff. 11/7/90, Register 116)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.09.110	AS 41.17.055	AS 46.17.030
	AS 29.65.050	AS 38.05.020	AS 38.50.160	AS 41.21.020	
	AS 29.65.120	AS 38.08.110	AS 41.15.020	AS 46.15.020	

11 AAC 02.060. STAYS; EXCEPTIONS. (a) Except as provided in (c) and (d) of this section, timely appealing or requesting reconsideration of a decision in accordance with this chapter stays the decision during the commissioner's consideration of the appeal or request for reconsideration. If the commissioner determines that the public interest requires removal of the stay, the commissioner will remove the stay and allow all or part of the decision to take effect on the date set in the decision or a date set by the commissioner.

(b) Repealed 9/19/2001.

(c) Unless otherwise provided, in a statute or a provision of this title, a decision takes effect immediately if it is a decision to

(1) issue a permit, that is revocable at will;

(2) approve surface operations for a disposal that has already occurred or a property right that has already vested; or

(3) administer an issued oil and gas lease or license, or an oil and gas unit agreement.

(d) Timely appealing or requesting reconsideration of a decision described in (c) of this section does not automatically stay the decision. However, the commissioner will impose a stay, on the commissioner's own motion or at the request of an appellant, if the commissioner determines that the public interest requires it.

(e) A decision takes effect immediately if no party is eligible to appeal or request reconsideration and the commissioner waives the commissioner's right to review or reconsider the decision. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 46.15.020
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.17.030
	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020	

11 AAC 02.070. WAIVER OF PROCEDURAL VIOLATIONS. The commissioner may, to the extent allowed by applicable law, waive a requirement of this chapter if the public interest or the interests of justice so require. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 29.65.120	AS 38.05.035	AS 38.50.160	AS 41.21.020
	AS 03.10.020	AS 38.04.900	AS 38.08.110	AS 41.15.020	AS 46.15.020
	AS 29.65.050	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 46.17.030

11 AAC 02.080. DEFINITIONS. Repealed. (Eff. 11/7/90, Register 116; repealed 9/19/2001, Register 159)

Editor's note: The subject matter formerly set out at 11 AAC 02.080 has been moved to 11 AAC 02.900.

11 AAC 02.900. DEFINITIONS. In this chapter,

(1) "appeal" means a request to the commissioner to review a decision that the commissioner did not sign or cosign;

(2) "appellant" means a person who files an appeal or a request for reconsideration.

(3) "commissioner" means the commissioner of natural resources;

(4) "decision" means a written discretionary or factual determination by the department specifying the details of the action to be allowed or taken;

(5) "department" means, depending of the particular context in which the term is used, the Department of Natural Resources, the commissioner, the director of a division within the Department of Natural Resources, or an authorized employee of the Department of Natural Resources;

(6) "request for reconsideration" means a petition or request to the commissioner to review an original decision that the commissioner signed or cosigned. (Eff. 11/7/90, Register 116; am 9/19/2001, Register 159)

Authority:	AS 03.05.010	AS 38.05.020	AS 38.09.110	AS 41.17.055	AS 44.62.540
	AS 29.65.050	AS 38.05.035	AS 38.50.160	AS 41.21.020	AS 46.15.020
	AS 29.65.120	AS 38.08.110	AS 41.15.020	AS 44.37.011	AS 46.17.030
	AS 38.04.900				

Editor's note: The subject matter of 11 AAC 02.900 was formerly located at 11 AAC 02.080. The history notes for 11 AAC 02.900 does not reflect the history of the earlier section.